

DOCKET FILE COPY ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
Amendment of Section 73.606(b),)
Table of Allotments,)
TV Broadcast Stations.)
(North Pole and Plattsburgh, New York))
)
Amendment of Section 73.622(b),)
DTV Table of Allotments,)
DTV Broadcast Stations.)
(North Pole and Plattsburgh, New York))

MM Docket No. 99-238
RM-9669

RECEIVED

AUG 23 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: Chief, Allocations Bureau
Policy & Rules Division
Mass Media Bureau

COMMENTS OF
MT. MANSFIELD TELEVISION, INC.

J. Roger Wollenberg
Joel Rosenbloom
William R. Richardson, Jr.
Michael A. McKenzie
WILMER, CUTLER & PICKERING
2445 M Street, N.W.
Washington, D.C. 20037-1420
(202) 663-6000

Counsel for Mt. Mansfield Television Inc.

August 23, 1999

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SUMMARY

WPTZ's petition is premised entirely on the notion that "North Pole and Plattsburgh are in the same community." Petition at 4. That proposition, however, cannot be sustained. As demonstrated herein, the area to which Channel 5 was allocated was, and remains, the village of Lake Placid and the entire Tri-Lakes area -- a rural, resort area in the Adirondack Mountains that is demonstrably separate from and independent of Plattsburgh. North Pole has always been closely associated with the Tri-Lakes area -- not, as WPTZ now argues for the first time, with Plattsburgh.

WPTZ's petition should thus be denied because favorable Commission action would deprive Lake Placid area residents of their sole local transmission service. In applying its television allotment priorities, the Commission has long prohibited the removal of an existing station representing a community's sole local service, and the Notice of Proposed Rulemaking in this proceeding specifically recognizes that longstanding policy.

Moreover, WPTZ's petition must be denied in order to preserve the historic right of Lake Placid area residents to receive "principal community" coverage. Although WPTZ claims that there will no change in its existing service because it "does not propose to relocate [its] transmitter site," Petition at 4, the change that it does seek in this proceeding would release it from any obligation to continue to provide Lake Placid area residents with "principal community" coverage. The loss of this historic right is not merely academic, because WPTZ has every intention of relocating its DTV facilities to Mt. Mansfield in Vermont. Any such move could have a significant effect on WPTZ's ability to provide digital service to Lake Placid area residents -- to whom WPTZ continues to owe its principal obligation.

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To: Chief, Allocations Bureau
Policy & Rules Division
Mass Media Bureau

**COMMENTS OF
MT. MANSFIELD TELEVISION, INC.**

Pursuant to Section 1.415 of the Commission's rules, Mt. Mansfield Television, Inc. ("Mt. Mansfield"), the licensee of WCAX-TV, Channel 3, Burlington, Vermont, respectfully opposes the proposal of Hearst-Argyle Stations, Inc. ("WPTZ"), licensee of WPTZ, Channel 5, North Pole, New York, and WPTZ-DT, Channel 14, North Pole, New York, to change its community of license to Plattsburgh.^{1/}

As shown below, this allotment was originally sought, and ultimately made, as one serving the village of Lake Placid and the entire Tri-Lakes area, a rural, resort area of upstate New York in the Adirondack Mountains that is geographically, politically, and economically independent of

^{1/} As a competitor of WPTZ, Mt. Mansfield has a direct interest in the scope of WPTZ's service area and its obligations to its city of license.

Plattsburgh. Although WPTZ's predecessor was allowed to select North Pole as its city of license under the now-repealed "15-mile rule," that designation never altered the area-wide nature of the Commission's allotment. Changing WPTZ's community of license to Plattsburgh would deprive this mountain resort area -- the largest communities in which are Lake Placid and Saranac Lake -- of its sole local television outlet, of its right to receive superior "principal community" analog service from that outlet, and of its right to receive *any* digital service from that same station.

All of these consequences would be contrary to Commission policy. We stress, moreover, that the concern about digital service is not academic. Although WPTZ is not proposing to relocate its digital transmission facility *in this proceeding*, we show below that it is actively planning a move to a site in Vermont, from which it would not provide a digital service to much of Lake Placid and nearly all of Saranac Lake. For all of these reasons, the petition should be denied.

Background

WPTZ has inherited a longstanding obligation to serve the Tri-Lakes area. In May 1953, WPTZ's predecessor-in-interest ("Great Northern") first applied to the FCC to allot a television station (Channel 5) to Lake Placid, New York, based on the claim that "Lake Placid is the center of a large rural and resort area."^{2/} The application further emphasized that the Lake Placid area "is 'snowed in' during part of the winter and therefore will greatly benefit from a television service which it presently does not have."^{3/} The Commission agreed. In making the allotment to Lake

^{2/} See Petition to Amend Table: Channel 5, Lake Placid, New York, ¶ 4 (May 29, 1953), ex. 1 (attached hereto).

^{3/} *Id.*

Placid, it found that Lake Placid “is the center of a large rural and resort area . . . [with] no existing television stations.”^{4/}

Under the now defunct “15-mile” rule, which authorized television licensees to move anywhere within 15 miles of their original community of license, *see* 47 C.F.R. § 73.607(b) (1982),^{5/} Great Northern was permitted in 1954 to specify North Pole (which it noted was only 10.2 miles from Lake Placid) as its new community of license.^{6/} However, in justifying its selection of North Pole, Great Northern argued that Channel 5 “should be operated as a station serving *the entire area* rather than a station whose activities are identified primarily with one of the towns or villages in the area.”^{7/}

WPTZ’s petition is premised entirely on the notion that “under the broad definition of ‘communities,’ . . . North Pole and Plattsburgh are in the same community.” Petition at 4. Mt. Mansfield agrees that, in this case, the foregoing history of the allocation of Channel 5 confirms that it was intended to serve a broader definition of community. But that Adirondack Mountain

^{4/} *Amendment of Section 3.606*, Docket No. 10562, FCC 53-777 (June 29, 1953), ex. 1 (attached hereto).

^{5/} The FCC deleted the 15-mile rule in 1983 due to concerns that the rule was “frustrat[ing] rather than further[ing] the goal of Section 307(b) to inhibit the establishment of stations in small communities located nearby larger ones.” *Suburban Community Policy, the Berwick Doctrine, and the De Facto Reallocation Policy*, 93 FCC 2d 436, ¶ 1 (1983). The result of the flexible 15-mile regime was “an unjustified grouping of stations” around large cities. *Id.* ¶ 2.

^{6/} *See* Application by Great Northern Television, Inc. for Modification of Construction Permit at 2 (April 22, 1954), ex. 1 (attached hereto).

^{7/} *Id.* (emphasis added).

community -- the Lake Placid resort area -- is decidedly separate from and independent of Plattsburgh in all respects deemed significant by the Commission.

Lake Placid is a village in Essex County of approximately 2,500 persons, and lies within the larger town of North Elba, NY, which has a population of 7,870.^{8/} North Pole, also in Essex County, shares the same zip code.^{9/} As depicted on the attached map, both are situated in what is known as the "Tri-Lakes area" -- Tupper Lake, Saranac Lake, and Lake Placid -- located in the heart of the Adirondack Mountains.^{10/} Contrary to WPTZ's wholly unsupported assertion, residents of this area do not "come to Plattsburgh for almost everything." Petition at 4. They clearly do not, for example, work in Plattsburgh. Lake Placid has more than 325 commercial establishments and several major employers, including the Olympic Regional Development Association, the Raybrook Federal Prison, the Adirondack Correctional Prison, the New York Department of Environmental Protection, and two large hotel and motel chains.^{11/} According to 1990 Census data, 1,198 of Lake Placid's 1,301 full-time workers (aged 16 or over), or 92%, worked in Lake Placid or Essex County (which does not include Plattsburgh).^{12/} Even in Essex

^{8/} See U.S. Census Bureau, U.S. Gazetteer Place and Zipcode files (1990).

^{9/} See *id.*

^{10/} See ex. 2.

^{11/} See U.S. Census Bureau, U.S. Gazetteer Zipcode Business Patterns (1990).

^{12/} *Id.*

County as a whole, which extends well beyond the Adirondacks in the area toward Plattsburgh, only 2,353 of 14,879 full time workers, or 16%, worked in other counties in New York State.^{13/}

Nor do area residents depend upon Plattsburgh for news, governmental services, schools, health care, or libraries. Lake Placid publishes its own daily newspaper (the *Adirondack Daily Citizen*) and weekly newspaper (the *Lake Placid News*), while maintaining a locally-staffed bureau of a large Plattsburgh daily newspaper (*Press Republican*). It also has its own radio stations, WIRD(AM) and WLPW(FM).^{14/} The community also elects its own Board of Supervisors and county officials, maintains a 15 person police force and fire department, includes several post offices (with a separate zip code), a public elementary and secondary school system, three private schools, a medical facility (Adirondack Medical Center) and a public library.

The larger village of Saranac Lake, which lies only about 8 miles from Lake Placid and 15 miles from North Pole, is an integral part of this mountain resort community. Saranac Lake has a village population of 5,500, with 10,000 in general area. Its Chamber of Commerce has 440 members. It has three additional radio stations,^{15/} and an additional newspaper, the *Adirondack Daily Enterprise*. Saranac Lake includes a major hotel, a SUNY community college, a hospital with two affiliated health centers, and bus and rail service.

^{13/} *Id.*

^{14/} 1999 Broadcasting & Cable Yearbook D-303.

^{15/} 1999 Broadcasting & Cable Yearbook D-311.

There is no Plattsburgh “urbanized area,” for Census Bureau purposes.^{16/} While Lake Placid is only about 10 miles away from North Pole, Plattsburgh is 28 miles away, in a wholly different county (Clinton County). There is no public transportation between Lake Placid or North Pole or Saranac Lake and Plattsburgh, and driving time between North Pole and Plattsburgh is approximately forty-five minutes. In contrast, Plattsburgh is linked with Burlington by ferry (via Grand Isle, VT) and bus service. These two larger named cities in the Burlington-Plattsburgh DMA are becoming more closely linked in an economy that is far different from the resort infrastructure in the Adirondacks.

Argument

As WPTZ acknowledges (Petition at 2), requests for a change in community of license filed pursuant to Section 1.420(i) can be approved only if the Commission determines that the proposed new allotment would serve its allotment priorities and policies better than the existing allotment, and if the change would not have the effect of depriving a community of an existing service representing its sole local transmission service.^{17/} The Commission's allotment priorities are to (1) provide at least one television service to all parts of the U.S.; (2) provide each community with at least one television station; (3) provide a choice of at least two television stations to all parts of the U.S.; (4) provide each community with at least two television stations;

^{16/} The Census Bureau defines an “urbanized area” as “one or more places and the adjacent densely settled territory that together have a minimum of 50,000 persons.” U.S. Census Bureau, Index of Census Data, Urban and Rural Definitions (October 1995). Plattsburgh does not qualify as an urbanized area under the Census Bureau's definition, and the available evidence plainly demonstrates that the town does not serve as any hub for the Tri-Lakes area.

^{17/} See *Modification of FM and TV Authorizations*, 5 FCC Rcd 7094, ¶ 2 (1990).

and (5) assign the remaining channels based on population, geographic location, and the number of services available.^{18/}

WPTZ's petition is directly at odds with the Commission's second allotment priority, because a grant of the requested relief would deprive an existing community of its sole local television service, to which it has been entitled for over 46 years. Mt. Mansfield does not dispute the fact that North Pole *itself* is "in essence, a holiday novelty village."^{19/} But as WPTZ also recognizes, the Commission "has employed an expanded definition of 'community' in television assignment cases."^{20/} Indeed, the history of this allotment makes particularly clear that it has always been the Lake Placid area to which the station has owed its principal obligation. And under analogous criteria used by the Commission to determine whether smaller communities are interdependent with larger ones, it is clear that this Adirondack Mountain area cannot be considered to be "in the same community" with Plattsburgh. Petition at 4.^{21/}

I. Residents of the Lake Placid Area Are Clearly Entitled to the Continued Protection of Their Sole Local Transmission Service.

In applying the television allotment priorities, the Commission has long prohibited the removal of an existing station representing a community's sole local service, and the Notice

^{18/} *Sixth Report and Order on Television Allocations*, 41 FCC 148, 167 (1952).

^{19/} Petition at 3.

^{20/} *Id.* citing *Winter Park Communications v. FCC*, 873 F.2d 347 (D.C. Cir. 1989), *aff'd sub. nom.*, *Metro Broadcasting v. FCC*, 497 U.S. 547 (1990) (FCC may employ a broader definition of the term "community" in television cases than in the radio context); and *Bessemer and Tuscaloosa*, 5 FCC Rcd 669 (1990) (same).

^{21/} If the Commission should conclude that North Pole is not a community for allotment purposes, it should order WPTZ to show cause why its license should not be modified to specify Lake Placid or Saranac Lake as its community of license.

recognizes this longstanding policy.^{22/} Moreover, the Commission has expressly recognized that “a proposal which would reduce the number of communities enjoying local service is presumptively contrary to the public interest.”^{23/}

As noted above, the area to which Channel 5 was allocated was, and remains, the Lake Placid mountain resort area with which North Pole has always been closely associated. In allotting Channel 5 in 1954, the Commission treated Lake Placid as “the center of a large rural and resort area . . . [with] no existing television stations.”^{24/} And in seeking to specify North Pole as its community of license under the old 15-mile rule, WPTZ’s predecessor itself recognized that the station “should be operated as [one] serving the entire area rather than a station whose activities are identified primarily with one of the towns or villages in the area.”^{25/} This area wide Tri-Lakes allotment was not unique. At about the same time in 1954, the Commission made a similar allotment of Channel 10 in the area of Jackson, Michigan.^{26/} As the Bureau later explained that allotment:

Unlike the typical channel allocation to a specified city, . . . the 1954 allocation of Channel 10 was primarily intended to provide a single *area-wide* television service for the relatively small triangular area in the South Central portion of Michigan west of Jackson and south of Lansing. *No one city alone was intended as the place*

^{22/} See e.g., *Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations*, 5 FCC Rcd 7094, 7096 (1990); *Amendment of Section 73.606(b)*, MM Docket No. 99-238, DA 99-1235 (July 2, 1999) ¶ 3.

^{23/} 5 FCC Rcd 7094, at ¶ 18.

^{24/} *Amendment of Section 3.606*, Docket No. 10562, FCC 53-777 (June 29, 1953).

^{25/} See Application by Great Northern at 2.

^{26/} See *Triad Television*, 25 F.C.C. 848, 1012-13 (1958), *aff'd sub nom. Jackson Broadcasting v. FCC*, 280 F.2d 676 (D.C. Cir. 1960).

to be served by a television service operating on Channel 10

Adams TV of Lansing, Inc., 57 R.R.2d 380, 385 (MMB 1984)(emphasis added). This is precisely what WPTZ's predecessors intended, and precisely what the Commission did, with Channel 5.

As noted above, WPTZ does not disagree with the proposition that Channel 5 was intended as an area-wide service for these purposes. It argues, however, that this area and Plattsburgh "are in the same community." Petition at 4. This proposition cannot be sustained.

As the staff has recognized, in looking at this question it is useful to rely upon the kinds of factors traditionally employed by the Commission in determining whether one community is part of another for Section 307(b) purposes.^{27/} In addition to relative size and proximity, those factors include the extent to which community residents work in the larger metropolitan area; whether the smaller community has its own newspaper or other media; whether community leaders and residents perceive the community as being an integral part of, or separate from, the larger metropolitan area; whether the smaller community has its own elected officials; whether the smaller community has its own telephone book or zip code; whether the smaller community has its own commercial establishments, health facilities, and transportation system; and the extent to which the smaller community relies on the larger community for municipal services such as police, fire, schools, and libraries.^{28/}

^{27/} *Amendment of Section 73.606(b) (Bessemer and Tuscaloosa, Alabama)*, 67 R.R.2d 474 (All. Br. 1990). In the usual case, the proponent seeks a "move-in" to a larger metropolitan area, and the question is whether the proposed new community can fairly be said to be independent of the larger city. In this case, WPTZ seeks to change its community to the larger city, and claims that the prior community is integrally related with it. In either case, the issue is the same: are they fairly considered as a single community, or as independent ones?

^{28/} *See, e.g., Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988).

As noted above, these factors demonstrate with compelling force that the Lake Placid community cannot fairly be subsumed into that urban community on Lake Champlain. Only 8% of Lake Placid's full-time employees work *anywhere* outside Essex County. The area has its own Chamber of Commerce, its own government, police, fire, medical, school, college, post office, transportation, and library facilities, and its own media outlets. It is geographically separated by the Adirondacks from Plattsburgh, which lies nearly 30 miles from North Pole and 39 miles from Lake Placid. In short, there is no basis for depriving the Lake Placid area of its long established right to a first local service.

II. WPTZ's Petition Must be Denied in Order to Ensure Preservation of the Historic Right of Lake Placid Area Residents to Receive Principal Community Coverage.

As the Commission has recognized, "the public has a legitimate expectation that existing service will continue and this expectation is a factor we must weigh . . . against [any] service benefits that may result from reallocating . . . a channel from one community to another."^{29/} One of the principal benefits accorded to residents of a community of license is the assurance that they will continue to receive "principal community" coverage. 47 C.F.R. § 73.625 (DTV). In the analog context, that right, which guarantees those residents technical service of a quality better than Grade A coverage, has long been regarded as "essential to our television allocations

^{29/} See *Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations*, 5 FCC Rcd 7094, 7096 (1990).

system.”^{30/} In the digital context, that right is needed to ensure that they will receive any service at all.^{31/}

WPTZ asserts that there will be “no change in the area or population served by the station” because “petitioner does not propose to relocate the transmitter site for Station WPTZ,” and “is not proposing to operate Station WPTZ-DT on another channel or proposing to relocate its digital transmitter facilities.”^{32/} But the change of community of license that WPTZ does propose would relieve it of the obligation to continue to provide Lake Placid area residents with “principal community” coverage. This concern is by no means an academic one in this case. As noted above, WPTZ is actively planning to locate its DTV facilities on Mt. Mansfield in Vermont. In 1996, the station’s general manager made clear that “WPTZ wishes to broadcast from Mt. Mansfield in the ATV world,” and it has continued to participate since that time in the active efforts of the group of broadcasters planning the design of DTV facilities at that site in Vermont.^{33/} Any such move would likely have a drastic effect on WPTZ’s ability to provide digital service to the Lake Placid area.^{34/} As demonstrated in the attached engineering statement, DTV service from Mt. Mansfield could result in a loss of noise limited coverage to almost one-

^{30/} *Central Coast Television*, 14 F.C.C.2d 985, 994 (Rev. Bd. 1968) (quoting *Oklahoma Television Corp.*, 17 R.R. (P&F) 718, 722 (1958), *review denied*, 18 F.C.C.2d 885 (1969), *petition for remand denied*, 21 F.C.C.2d 363 (1970).

^{31/} See 47 C.F.R. §§ 73.622(e)(1) & 73.625(a)(1).

^{32/} *Id.* ¶ 4; *see also*, ¶ 7 (“As with petitioner’s NTSC channel, petitioner is not proposing to . . . relocate its digital transmitter facilities”).

^{33/} Declaration of Peter R. Martin, ¶ 3, and ex. 3 (attached hereto).

^{34/} Engineering Statement of William F. Hammett at ex. 4 (attached hereto).

quarter of the population of Lake Placid, and eliminate such coverage to 96% of nearby Saranac Lake.^{35/}

Lake Placid area viewers have a legitimate expectation of sharing in the benefits of digital technology,^{36/} particularly since at the end of the digital transition, they will no longer enjoy analog reception.^{37/} Accordingly, it is particularly important that the Commission deny the petition in order to ensure preservation of the right of Lake Placid area residents to service in the digital age.^{38/}

^{35/} *Id.*

^{36/} The Commission emphasized throughout the DTV implementation proceeding its intention to foster “an expeditious and orderly transition . . . that will allow the public to receive the benefits of digital television.” Fifth Report & Order, MM Docket 87-268 ¶ 4 (April 21, 1997). By referring to “the public,” the Commission did not mean large population centers; rather, it intended the “introduction of a free and universally available digital broadcast service.” *Id.*

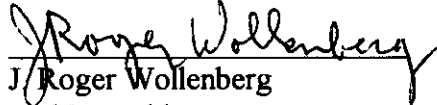
^{37/} Analog service is scheduled to end on December 31, 2006. See 47 U.S.C. § 309(j)(14).

^{38/} As noted in the attached engineering statement, it would also appear that any DTV move to Mt. Mansfield could result in the loss of digital service to 82% of Franklin County, representing over 21,000 people. See Engineering Statement of William F. Hammett. Moreover, relocation to Mt. Mansfield could result in impermissible interference with Canadian land mobile operators on Channel 14 and LPTV stations in Burlington, VT and Binghamton, NY. *Id.*

Conclusion

For the reasons stated above, WPTZ's petition should be denied.

Respectfully submitted,

A handwritten signature in cursive script, reading "J. Roger Wollenberg". The signature is written in black ink and is positioned above the printed names of the signatories.

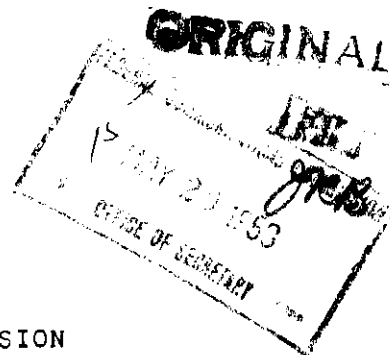
J. Roger Wollenberg

Joel Rosenbloom

William R. Richardson, Jr.

Michael A. McKenzie

EXHIBIT 1



Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington 25, D. C.

In the Matter of

Amendment to Section 3,606
Table of Assignments, Rules
Governing Television Broadcast
Stations

May 29, 1953
#10562
Docket No.

Docket Section
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(b/c)

PETITION TO AMEND TABLE: CHANNEL 5, LAKE PLACID, NEW YORK

Lynn C. Smeby and others respectfully request the allocation of Channel 5 to Lake Placid, New York. In support thereof it is shown:

1. Lake Placid, New York, is a community of 2,999 persons (1950 U. S. census) for which no television channel has been allocated; the nearest assignment is Channel 18 for Saranac Lake.

2. There are no existing TV stations near Lake Placid and it is believed that there will be none for some time.

3. Because of the mountainous terrain in the general area of Lake Placid a UHF channel does not provide adequate service for many of the inhabitants who live in small towns located principally in the valleys between the mountains. Furthermore, from an economic standpoint it is desirable to offer a good signal in a thinly populated area. Such needs can best be met by the assignment of a VHF channel.

4. Petitioners propose the allocation of Channel 5 to Lake Placid which is the center of a large rural and resort area. A station located near Lake Placid will provide a service to this population which is "snowed in" during part of the winter and therefore will greatly benefit from a television service which it does not presently have.

5. There do not appear to be any engineering objections to the proposed allocation. See engineering statement attached hereto and incorporated by references.

6. If the proposed allocation is made, petitioners stand ready to file an application using an excellent site from which a large area will receive a good signal.

WHEREFORE petitioners pray that this honorable Commission adopt a notice of proposed rule making and take whatever further steps are necessary in order to allocate Channel 5 to Lake Placid, New York.

Respectfully submitted,



A. L. Stein
Attorney for Petitioners

Warner Building
Washington, D. C.
May 29, 1953

LYNNE C. SMEBY
CONSULTING RADIO ENGINEER
1311 G STREET, N. W.
WASHINGTON 5, D. C.

May 29, 1953

Mr. T. J. Slowie
Secretary
Federal Communications Commission
Washington, D.C.

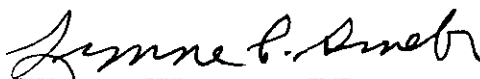
re: Proposed TV Channel
5 for Lake Placid,
New York

Dear Mr. Slowie:

A study I have made shows that it is feasible to assign TV Channel 5 to Lake Placid, New York. Following are pertinent factors:

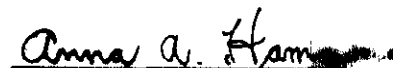
- 1 - No VHF channel is presently assigned to Lake Placid, Essex County, nor to any other community in Northern New York.
- 2 - Northern New York is very mountainous and people in general live in the valleys between the mountains. Even after UHF stations are operating on all of the allocated channels in Northern New York much of the population will still be without service because of line-of-sight obstructions by mountains. A VHF station will not be affected nearly as much as a UHF station and therefore will render a much greater and better service to the area.
- 3 - The nearest co-channel assignment is to Quebec, Quebec at a distance in excess of 210 miles. The nearest adjacent channel assignment is channel 6 in Montreal, Quebec at a distance in excess of 80 miles. The location of post offices in these three cities are unknown; however measurement on a Sectional Aeronautical Chart shows the above distances between the closest points in each pair of cities.
- 4 - The assignment of channel 5 to Lake Placid will not require any change in the present table of assignments.

This is to certify that my qualifications as a radio engineer are a matter of record with the Commission and that the above is true and accurate to the best of my knowledge.


Lynne C. Smye

(seal) Subscribed and sworn to before me this 29th day
of May 1953.

My Commission expires
May 14, 1958


Notary Public D.C.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington 25, D.C.

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In the Matter of

Amendment of Section 3.606
Table of Assignments, Rules
Governing Television Broadcast
Stations

Docket No. 10562

NOTICE OF PROPOSED RULE MAKING

1. Notice is hereby given that the Commission has received a proposal for rule making in the above-entitled matter.

2. The Commission has before it a petition filed by Lynne C. Smoby, Washington, D.C., on May 29, 1953, and now made part of this docket, requesting an amendment of Section 3.606, Table of Assignments, Rules Governing Television Broadcast Stations as follows:

Add to Table of Assignments under the State of New York:

	<u>Channel No.</u>
Lake Placid	5

The following changes with respect to the offset carrier requirements only will be required as a result of the assignment of Channel 5 to Lake Placid:

	<u>Present</u>	<u>Proposed</u>
Bangor, Maine	5-	5/
Boston, Massachusetts	5	5-

3. In support of its requested amendment petitioner urges that Lake Placid, to which no television assignment has been made, is the center of a large rural and resort area; that there are no existing television stations near the community; and that the assignment as proposed is technically feasible.

4. Authority for the adoption of the proposed amendment is contained in Sections 4(i), 301, 303(c), (d), (f), and (r) and 307(b) of the Communications Act of 1934, as amended.

5. Any interested party who is of the opinion that the amendment proposed by petitioner should not be adopted or should not be adopted in the form set forth herein may file with the Commission on or before July 20, 1953 a written statement or brief setting forth his comments. Comments in support of the proposed amendment may also be filed on or before the same date. Comments or briefs in reply to the original comments may be filed within 10 days from the last day for filing said original comments or briefs. The Commission will consider all such comments that are submitted before taking action in this matter, and if any comments appear to warrant the holding of a hearing or oral argument, notice of the time and place of such hearing or oral argument will be given.

6. In accordance with the provisions of Section 1.764 of the Commission's Rules and Regulations, an original and 14 copies of all statements or comments shall be furnished the Commission.

SIGNED BY ABOVE
MAILED BY
FEDERAL COMMUNICATIONS COMMISSION JUN 30 1953
T. J. Blawie
Secretary

Adopted: June 25, 1953
Released: June 29, 1953

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington 25, D. C.

DOCKET FILE COPY
FCC 53-1170
94780
ORIGINAL

In the Matter of

Amendment of Section 3.606,
Table of Assignments,
Rules Governing Television
Broadcast Stations

Docket No. 10562 ✓

REPORT AND ORDER

By the Commission:

1. The Commission has under consideration its Notice of Proposed Rule Making issued on June 29, 1953 (FCC 53-777), and published in the Federal Register on July 7, 1953 (18 FR 3943), proposing to assign Channel 5 to Lake Placid, New York.

2. The time for filing comments in this proceeding expired July 20, 1953. No comments were filed opposing the assignment of Channel 5 to Lake Placid, New York. The Commission finds that the assignment of Channel 5 to Lake Placid would comply with the Commission's Rules, and that a finalization of the proposal would serve the public interest.

3. Authority for the adoption of the amendment is contained in Sections 4(i), 301, 303(c),(d),(f), and (r) and 307(b) of the Communications Act of 1934, as amended.

4. In view of the foregoing, IT IS ORDERED, That effective 30 days from publication in the Federal Register, the Table of Assignments contained in Section 3.606 of the Commission's Rules and Regulations is amended as follows:

1. Add to Table of Assignments under the State of New York

	<u>Channel No.</u>
Lake Placid	5

2. Change the Channel 5 assignment in Bangor, Maine from 5- to 5/
3. Change the Channel 5 assignment in Boston, Mass. from 5 to 5-.

FEDERAL COMMUNICATIONS COMMISSION

Wm. P. Massing
Wm. P. Massing
Acting Secretary

SIGNED BY ABOVE
MAILED BY

SEP 11 1953

MAIL & FILES

Adopted: September 9, 1953

Released: September 11, 1953

pub

CHICAGO OFFICE
NORTH LA SALLE STREET
RANDOLPH 51481

BMCT-2080

W/3LT

A. L. STEIN
ATTORNEY
WARNER BUILDING
WASHINGTON 4, D. C.
REPUBLIC 7-7944

April 22, 1954

Federal Communications Commission
Washington, D. C.

RE: Great Northern Television,
Inc. - WBLD - BPCT-1784

Gentlemen:

Transmitted herewith is an application for modification of construction permit to show a new transmitter location and the city to which the above station is to be assigned.

I understand that the C.A.A. office at New York has informally approved the proposed transmitter location; it is believed that a similar clearance will be forthcoming shortly from the local Air Space Sub-Committee.

If any questions arise in connection with this application, please contact the undersigned.

Respectfully submitted,


A. L. Stein

gm

Enclosures

FCC Form 301
Section I

Form Approved
Budget Bureau No. 12-R014 11

United States of America
Federal Communications Commission

APPLICATION FOR AUTHORITY TO CONSTRUCT A NEW BROADCAST
STATION OR MAKE CHANGES IN AN EXISTING BROADCAST STATION
(Revised 8-6-62)

INSTRUCTIONS

A. This form is to be used in applying for authority to construct a new AM (standard), commercial FM (frequency modulation), or commercial television broadcast station, or to make changes in existing commercial broadcast stations. This form consists of this part, Section I, and the following sections:

Section II, Legal Qualifications of Broadcast Applicant

Section III, Financial Qualifications of Broadcast Applicant

Section IV, Statement of Program Service of Broadcast Applicant

Section V-A, Standard Broadcast Engineering Data

Section V-B, FM Broadcast Engineering Data

Section V-C, Television Broadcast Engineering Data

Section V-G, Antenna and Site Information

B. Prepare three copies of this form and all exhibits. Swear to one copy of Section I. Prepare two additional copies (a total of five) of Section V-G and associated exhibits. File all the above with Federal Communications Commission, Washington 25, D. C.

C. Number exhibits serially in the space provided in the body of the form and list each exhibit in the space provided on page 2 of this Section. Show date of preparation of each exhibit, antenna pattern, and map, and show date when each photograph was taken.

D. The name of the applicant stated in Section I hereof shall be the exact corporate name, if a corporation; if a partnership, the names of all partners and the name under which the partnership does business; if an unincorporated association, the name of an executive officer, his office; and the name of the association. In other Sections of the form the name need be only sufficient for identification of the applicant.

E. Information called for by this application which is already on file with the Commission (except that called for in Section V-G) need not be refiled in this application provided (1) the information is now on file in another application or FCC form filed by or on behalf of this applicant; (2) the information is identified fully by reference to the file number (if any), the FCC form number, and the filing date of the application or other form containing the information and the page of paragraph referred to, and (3) after making the reference, the applicant states: "No change since date of filing." Any such reference will be considered to incorporate into this application all information, confidential or otherwise, contained in the application or other form referred to. The incorporated application or other form will thereafter, in its entirety, be open to the public.

F. This application must be executed by applicant, if an individual; by a partner of applicant, if a partnership; by an officer of applicant, if a corporation or association; or by attorney of applicant only under conditions shown in Section 1.303, Rules Relating to Organization and Practice and Procedure, in which event satisfactory evidence of disability of applicant or his absence from the Continental United States and authority of attorney to act must be submitted with application.

G. Before filling out this application, the applicant should familiarize himself with the Communications Act of 1934, as amended, Parts 1, 2, 3 and 17 of the Commission's Rules and Regulations and the Standards of Good Engineering Practice.

H. BE SURE ALL NECESSARY INFORMATION IS FURNISHED AND ALL PARAGRAPHS ARE FULLY ANSWERED. IF ANY PORTIONS OF THE APPLICATION ARE NOT APPLICABLE, SPECIFICALLY SO STATE. DEFECTIVE OR INCOMPLETE APPLICATIONS MAY BE RETURNED WITHOUT CONSIDERATION.

File No.

12-1784-11

Name and post office address of applicant (See Instruction D)

Great Northern Television, Inc.
301 Cornelia Street
Box 136
Plattsburg, New York

Send notices and communications to the following-named person at the post office address indicated Joel H. Scheier with copy to A.L. Stein, Warner Bldg., Wash., D.C.

1. Requested facilities

Frequency	Channel No.	Power in kilowatts	Minimum hours operation daily
76-82	5	Visual e.r.p.	8

Hours of operation

Unlimited	<input checked="" type="checkbox"/>	Sharing with (Specify Stations)	Other (Specify)
Daytime only	<input type="checkbox"/>	--	--
Limited	<input type="checkbox"/>	--	--

Type of station (as Standard, FM, Television)

Television

Location of main studio

City Terry Mountain State New York
nr. North Pole

2. If authority to make changes in an existing station is requested

a. Present facilities

Frequency	Call	Channel No.	Power in kilowatts	Minimum hours operation daily
76-82	WBLD	5	Visual 3.5	8

Hours of operation

Unlimited	<input checked="" type="checkbox"/>	Sharing with (Specify Stations)	Other (Specify)
Daytime only	<input type="checkbox"/>	--	--
Limited	<input type="checkbox"/>	--	--

Location of main studio

City Nr. Bloomingdale State New York

b. If this application is for changes in an existing authorization, complete Section I and any other sections necessary to show all substantial changes in information filed with the Commission in prior applications or reports. In the spaces below check Sections submitted herewith and as to Sections not submitted herewith refer to the prior application or report containing the requested information in accordance with Instruction E. (If contemplated expenditures are less than \$1,000, do not complete Section III. Section IV not required for applications for minor changes not involving change in power, change in frequency, change in hours of operation, or moving from city to city.)

Section No. Para. No. Reference (File or Form No. and Date)

☒ Section II) BPCT-1784, gr.
☒ Section III) 12/2/53
☒ Section IV)
☐ Section V

Have there been any substantial changes in the information incorporated in this application by reference in this paragraph? Yes ☐ No ☒

3. If this application is contingent on the grant of another pending application, state name of other applicant and file number of other application.

INAPPLICABLE

TECHNICAL INFORMATION
IN SUPPORT OF AN APPLICATION
FOR MODIFICATION OF CONSTRUCTION PERMIT

BPCT-1784 CHANNEL 5 57.5KW-ERP

GREAT NORTHERN TELEVISION, INC.

NORTH POLE, NEW YORK

INTRODUCTION

Great Northern Television, Inc., has been granted a permit, File BPCT-1784, to construct a television broadcast station to operate on Channel 5 with 3.55 kw ERP at an antenna height of 2750 feet at Bloomingdale, New York

Great Northern Television, Inc., is now filing an application for modification of the aforesaid construction permit to specify a transmitter and studio site near North Pole, New York. Likewise, proposed are a different antenna height above average terrain, increased effective radiated power, a different transmitter, and other changes described hereinafter or in the application itself.

All calculations, graphs, elevations, contours and other technical data have been determined in accordance with the methods specified in the Commission's technical standards concerning television broadcast stations unless specifically stated otherwise.

DETAILED NATURE OF MODIFICATIONS REQUESTED

The applicant now proposes to operate on Channel 5 with a visual power of 57.5 kw ERP and an aural power of 28.8 kw ERP at an antenna height of 1605 feet above the average elevation of the terrain within 2 to 10 miles of the transmitter site.

It is proposed to change the transmitter and studio site to Terry Mountain, which is 7.3 miles west of Peru and 12.5 miles northeast of

North Pole The site is in Clinton County, New York. North Pole, a new post office in Wilmington Township, New York, was authorized on December 16, 1953. North Pole, New York, is 10.2 miles from Lake Placid, New York, to which the Commission has assigned Channel 5.

REASONS FOR SELECTION OF NORTH POLE AS THE PLACE WITH WHICH THE PROPOSED STATION WILL BE IDENTIFIED

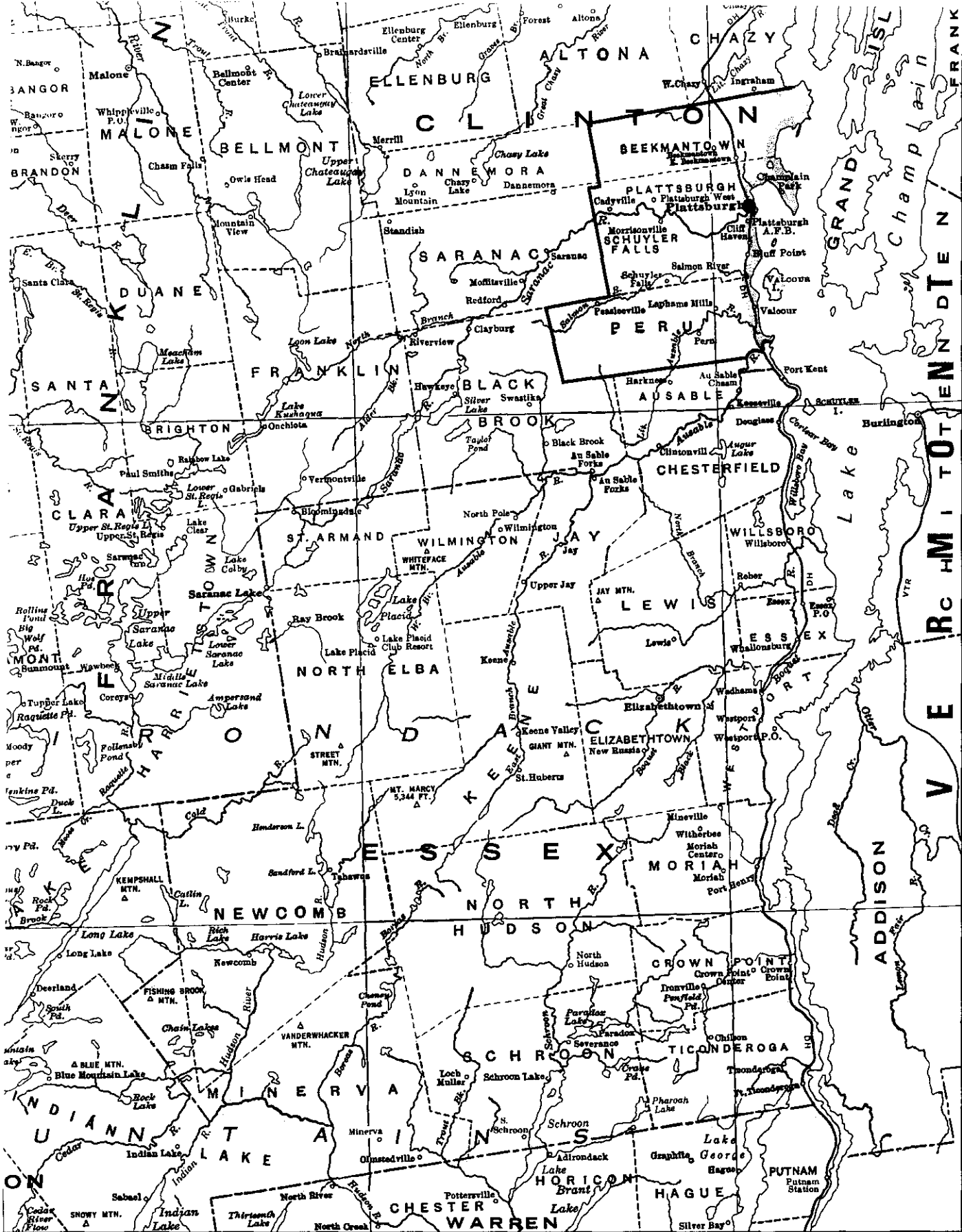
The reasons for selecting North Pole, New York, as a place with which the proposed Channel 5 station will be identified are as follows:

1. The proposed station should be operated as a station serving the entire area rather than a station whose activities are identified primarily with one of the towns or villages in the area.
2. At the time the construction permit was applied for originally, it was desired to specify North Pole, New York, as the town with which the Channel 5 station would be identified. However, at that time North Pole, New York, was neither an established post office nor was it listed as a town or place in the 1950 Census. We are advised that North Pole was not authorized as a United States post office until December 16, 1953.
3. North Pole is within 15 miles of Lake Placid, New York, to which Channel 5 is assigned by the Commission.
4. We are advised by the president of Great Northern Television, Inc., that the identification of this Channel 5 station with the name of North Pole is more significant from the standpoint of promotion than any other town in the area. In this connection the applicant proposes to broadcast some programs from the Santa Workshop at North Pole.

ANTENNA SYSTEM

The proposed antenna system will consist of a six-section superturnstile television antenna supported by a guyed steel tower, as shown on the antenna sketch of Figure 1. The center of the radiating portion of the television antenna system will be 542 feet above ground, or 2623 feet above mean sea level, with a resultant height above average terrain of 1605 feet. The over all height of the antenna will be 583 feet above

EXHIBIT 2



B
C
D
E
F
G
H

EXHIBIT 3

DECLARATION OF PETER R. MARTIN

1. I have served as Executive Vice President and General Manager of Mt. Mansfield Television, Inc., the licensee of WCAX-TV, Channel 3, Burlington, Vermont for 15 years. From 1996 through 1997, I served as Chairman of Mt. Mansfield Co-Location Association (the "Co-Location Association"). I have lived in the Burlington area for over 30 years. Based upon my personal experience, as well as the responsibility of WCAX to be responsive to the problems, needs and interests of its viewers in Vermont and upstate New York, I have become well aware of the political, economic and geographic characteristics of the "Tri-Lakes" area.

2. On January 1, 1996, in my capacity as Chairman of the Co-Location Association, I received a letter from Mr. Robert D. Shields, President and General Manager of WPTZ, Channel 5, North Pole, New York. In that letter, Mr. Shields stated as follows: "I think it's important to notify you and the rest of the co-location committee of WPTZ's goal. Simply, WPTZ wishes to broadcast from Mt. Mansfield in the ATV world." See Letter of Robert D. Shields to Peter R. Martin (January 9, 1996).

3. Over the past several years, WPTZ's actions make clear that it intends to relocate its digital facilities to Mt. Mansfield. Since January 1996, WPTZ has actively participated in the Co-Location Association's efforts to plan the design of DTV facilities at Mt. Mansfield. Those efforts specifically contemplate a design that includes DTV facilities for WPTZ on Mt. Mansfield, and WPTZ has never suggested any alternative site for such facilities.

4. I have collected the Tri-Lakes area information cited in the foregoing "Comments of Mt. Mansfield Television, Inc." from the Lake Placid and Saranac Lake Chambers of Commerce. (See www.lakeplacid.com, www.saranaclake.com).

5. I have reviewed the facts set forth in the foregoing "Comments of Mt. Mansfield Television, Inc." Those facts are true and correct to the best of my knowledge and belief.

Date: 30 AUGUST 1989

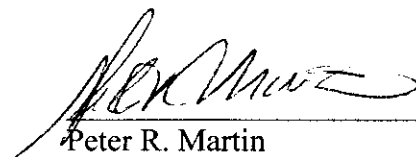

Peter R. Martin

EXHIBIT 4

Statement of Hammett & Edison, Inc., Consulting Engineers

The firm of Hammett & Edison, Inc., Consulting Engineers, has been retained by Mt. Mansfield Television, Inc., licensee of Station WCAX-TV, Burlington, Vermont, to provide engineering analysis of certain issues related to TV Station WPTZ, North Pole, New York.

Background

Hearst-Argyle Stations, Inc., licensee of TV Station WPTZ, Channel 5, and Station WPTZ-DT, Channel 14, North Pole, New York, has pending before the Commission a Petition (MM Docket No. 99-328, RM-9669) to re-allot NTSC Channel 5 and DTV Channel 14 from North Pole to Plattsburgh, New York.

Station WPTZ(TV) is licensed to transmit on TV Channel 5 with 25.1 kilowatts non-directional effective radiated power (ERP) from a site at Terry Mountain having an effective antenna height of 920 meters above mean sea level (AMSL) and 607 meters height above average terrain (HAAT). WPTZ-DT is allotted DTV Channel 14 at the same location, with a directional ERP of 216 kW; no construction permit application has yet been filed. WPTZ has been actively planning to locate its DTV facilities at Mt. Mansfield in Vermont (see associated Comments and affidavit of Peter R. Martin).

Power Allowed for WPTZ-DT at Mt. Mansfield

The noise-limited threshold is the minimum signal strength, as defined in Sections 73.622(e) and 73.625(a) of the Rules, that is required to receive DTV service. The 41 dBu F(50,90) coverage of Station WPTZ-DT was projected using both its allotted facilities at Terry Mountain and hypothetical facilities located at Mt. Mansfield. At the same antenna height as WCAX-TV (835 meters HAAT), Section 73.622(f)(8)(ii) of the FCC Rules would limit WPTZ-DT to only 185 kW, although existing Commission policy appears to allow WPTZ-DT to apply for facilities providing coverage equal to "... the same geographic coverage area as the largest station within their market"[†] In this case, the largest station would be WCAX-DT, which was allotted DTV facilities on Channel 53 at 817 kilowatts ERP (DA) and 1,265 meters AMSL.

Coverage analysis has been performed with TIREM to provide an estimate of the population to which service would be lost, were WPTZ-DT relocated to Mt. Mansfield. As discussed above, it is believed that the maximum power that might be assigned to WPTZ-DT at Mt. Mansfield would be that required to produce coverage equivalent to WCAX-DT. Because the two stations operate

[†] See MO&O on Reconsideration, Docket 87-268, February 17, 1998, ¶155.

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on different channels, the F(50,90) signal strength values required for equivalent noise-limited coverage will be different: 42.2 dBu on Channel 53 and 38.7 dBu on Channel 14. The 3.5 dB difference in required signal strength required at the two channels implies that a power level lower by 3.5 dB would be assigned to WPTZ-DT, Channel 14, to produce coverage equivalent to WCAX-DT, Channel 53. Therefore, rather than 817 kW, WPTZ-DT would be permitted a maximum ERP of 365 kW at Mt. Mansfield, assuming the same height and location as the WCAX-DT allotment.

Predicted Losses in WPTZ-DT Coverage

Although the FCC contours have historically been used for FCC coverage analysis, it is well known that they are only gross indicators of coverage, primarily because they do not take into account the specific terrain profile between the transmitter and receiver. Other methods, such as the Irregular Terrain Model (also known as "Longley-Rice") and the Terrain Integrated Rough Earth Model (known as "TIREM"), do account for the actual terrain and therefore are more reliable and accurate indicators of "real world" coverage. For its analyses, this firm prefers to use TIREM, which includes Longley-Rice as one of several propagation loss algorithms; additional information concerning the TIREM methodology is given in Figure 4.

Figure 1 is a map that shows the areas predicted to receive 38.7 dBu or better noise-limited service from WPTZ-DT at its allotted location. Figure 2 is a map that shows the areas predicted to have 38.7 dBu or better noise-limited service from WPTZ-DT at Mt. Mansfield (assuming facilities equivalent to those allotted WCAX-DT). Finally, Figure 3 is a map that shows the difference between Figures 1 and 2, *i.e.*, those areas predicted to gain or lose noise-limited service from WPTZ-DT as a result of relocation to Mt. Mansfield. The loss areas shown in Figure 3 include 7,090 square kilometers and 81,239 persons. Although there is no loss of service to Plattsburgh, the losses are dramatic in several areas, as shown in the table below:

<u>District</u>	<u>Service from Terry Mountain</u>	<u>Service from Mt. Mansfield</u>	<u>Difference</u>
Franklin County, New York	25,731 persons	4,704 persons	21,027 persons -82%
Lake Placid, New York	2,297	1,823	474 -21%
Saranac Lake, New York	4,937	176	4,761 -96%

Interference to Other Services

Although considered secondary, LPTV and TV Translator facilities sometimes provide important television service to persons living in communities that are remote or isolated by terrain. Analysis under the methodology specified by the FCC in OET Bulletin No. 69, described more fully in Figure



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5, indicates that two LPTV stations are expected to be displaced by the WPTZ-DT facilities, whether constructed at Terry Mountain or Mt. Mansfield: W14BU, Massena, New York, and W14CK, Newport, Vermont. New or increased interference from WPTZ-TV at Mt. Mansfield is predicted to viewers of two other LPTV stations: W14AH, Binghamton, New York (6,751 persons), and W16AL, Burlington, Vermont (135 persons).

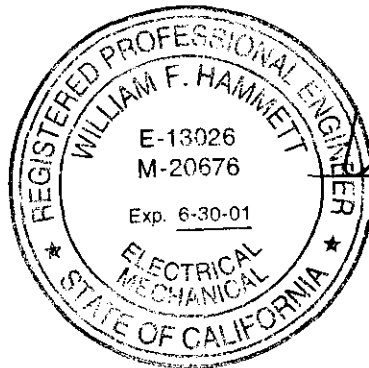
NTSC stations on Channel 14 (470–476 MHz) are known to cause interference to Land Mobile services in the adjacent 460–470 MHz band, and DTV stations, as well, are believed to have potential to cause interference to land mobile operations. It is noted that Mt. Mansfield has superior line-of-sight to large areas of Canada, and so interference with Canadian land mobile operations may be a more significant threat were WPTZ-DT located at Mt. Mansfield.

List of Figures

In carrying out these engineering studies, the following attached figures were prepared under my direct supervision:

1. Map showing terrain-sensitive coverage of allotted WPTZ-DT facility at Terry Mountain
2. Map showing terrain-sensitive coverage of assumed WPTZ-DT facility at Mt. Mansfield
3. Map showing terrain-sensitive coverage differences
4. Description of TIREM methodology
5. Description of OET-69 methodology.

August 20, 1999



William F. Hammett
William F. Hammett, P.E.

Affidavit

State of California

ss:

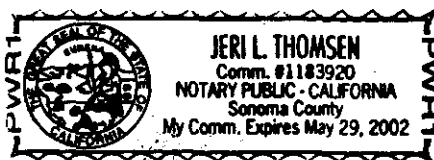
County of Sonoma

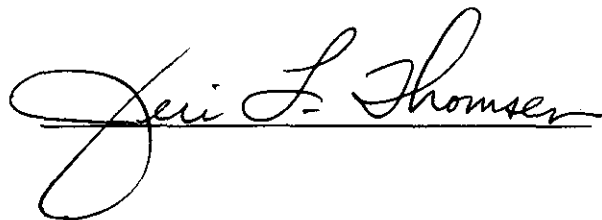
William F. Hammett, being first duly sworn upon oath, deposes and says:

1. That he is a qualified Registered Professional Engineer, holds California Registrations Nos. E-13026 and M-20676, which expire on June 30, 2001, and is a principal in the firm of Hammett & Edison, Inc., Consulting Engineers, with offices located near the city of San Francisco, California,
2. That he graduated from Dartmouth College with a degree in Engineering Sciences in 1977 and from the University of Illinois with a degree of Master of Science in 1978, has completed two years of employment by the Standard Oil Company and five years by Dean Witter Reynolds in various engineering, computer, and management capacities, and has been associated with the firm of Hammett & Edison, Inc., since 1985,
3. That the firm of Hammett & Edison, Inc., Consulting Engineers, has been retained by Mt. Mansfield Television, Inc., licensee of Station WCAX-TV, Burlington, Vermont, to provide engineering analysis of certain issues related to TV Station WPTZ, North Pole, New York,
4. That such engineering work has been carried out by him or under his direction and that the results thereof are attached hereto and form a part of this affidavit, and
5. That the foregoing statement and the report regarding the aforementioned engineering work are true and correct of his own knowledge except such statements made therein on information and belief and, as to such statements, he believes them to be true.


William F. Hammett, P.E.

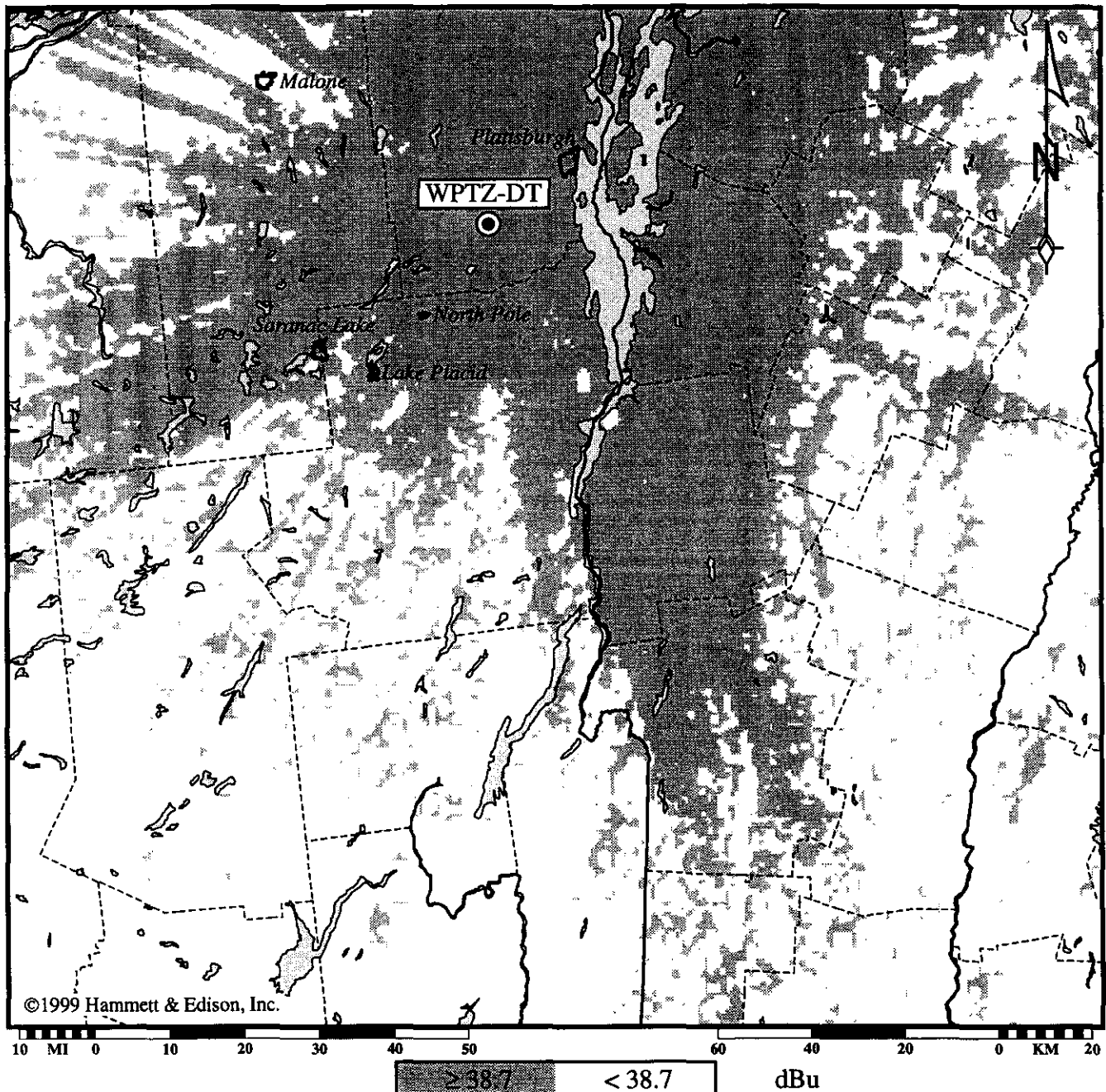
Subscribed and sworn to before me this 20th day of August, 1999





Mt. Mansfield Television, Inc. • Burlington, Vermont

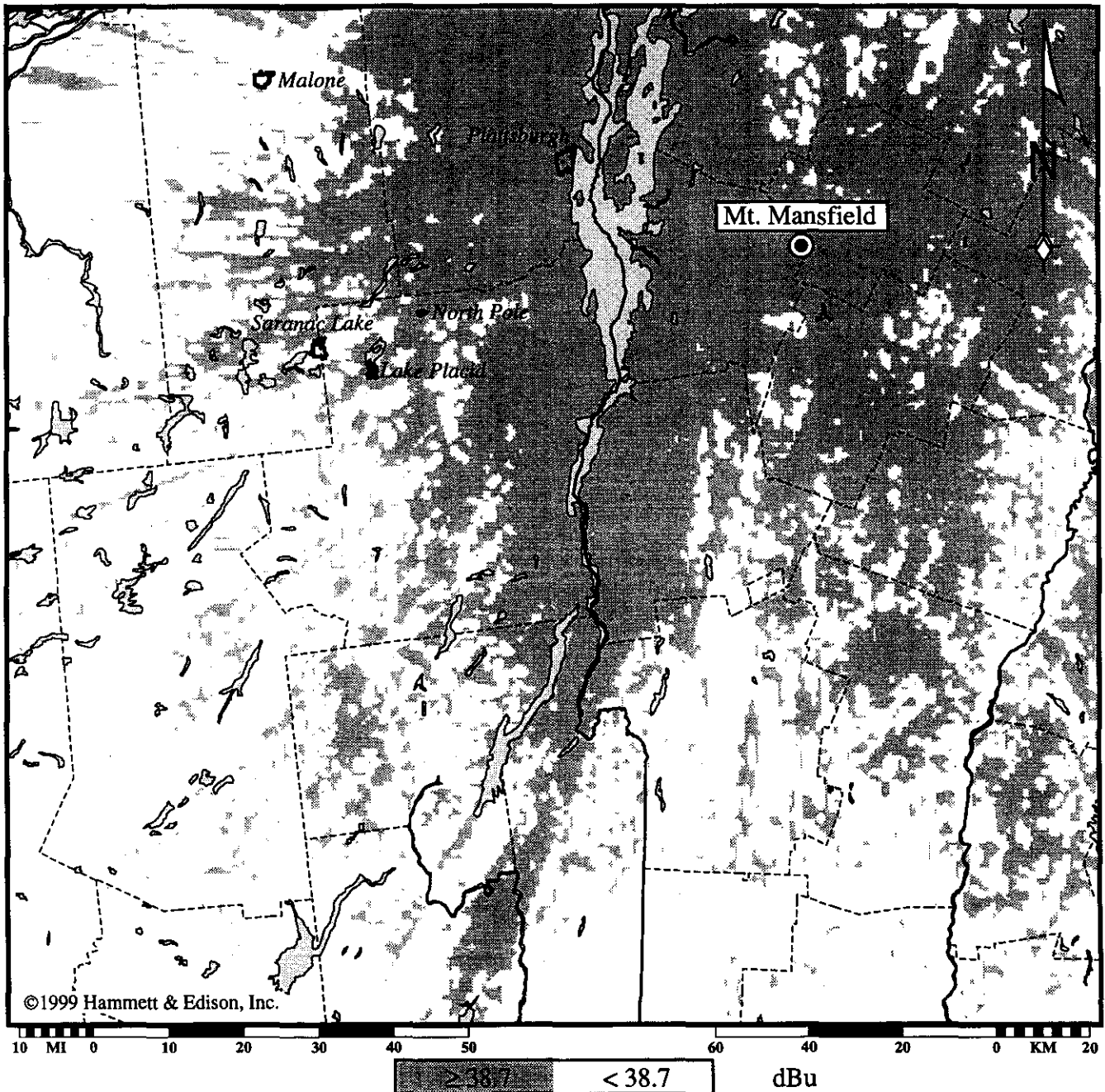
**Terrain-Sensitive Coverage
of Allotted WPTZ-DT Facilities at Terry Mountain
DTV Channel 14, 216 kilowatts (DA), 920 meters AMSL**



Based on proprietary implementation of the JSC Terrain Integrated Rough Earth Model propagation algorithm using 3-second USGS digitized terrain data. Map data taken from Sectional Aeronautical Charts, published by the National Ocean Survey. City limits shown taken from 1995 U.S. Census Bureau TIGER data.

Mt. Mansfield Television, Inc. • Burlington, Vermont

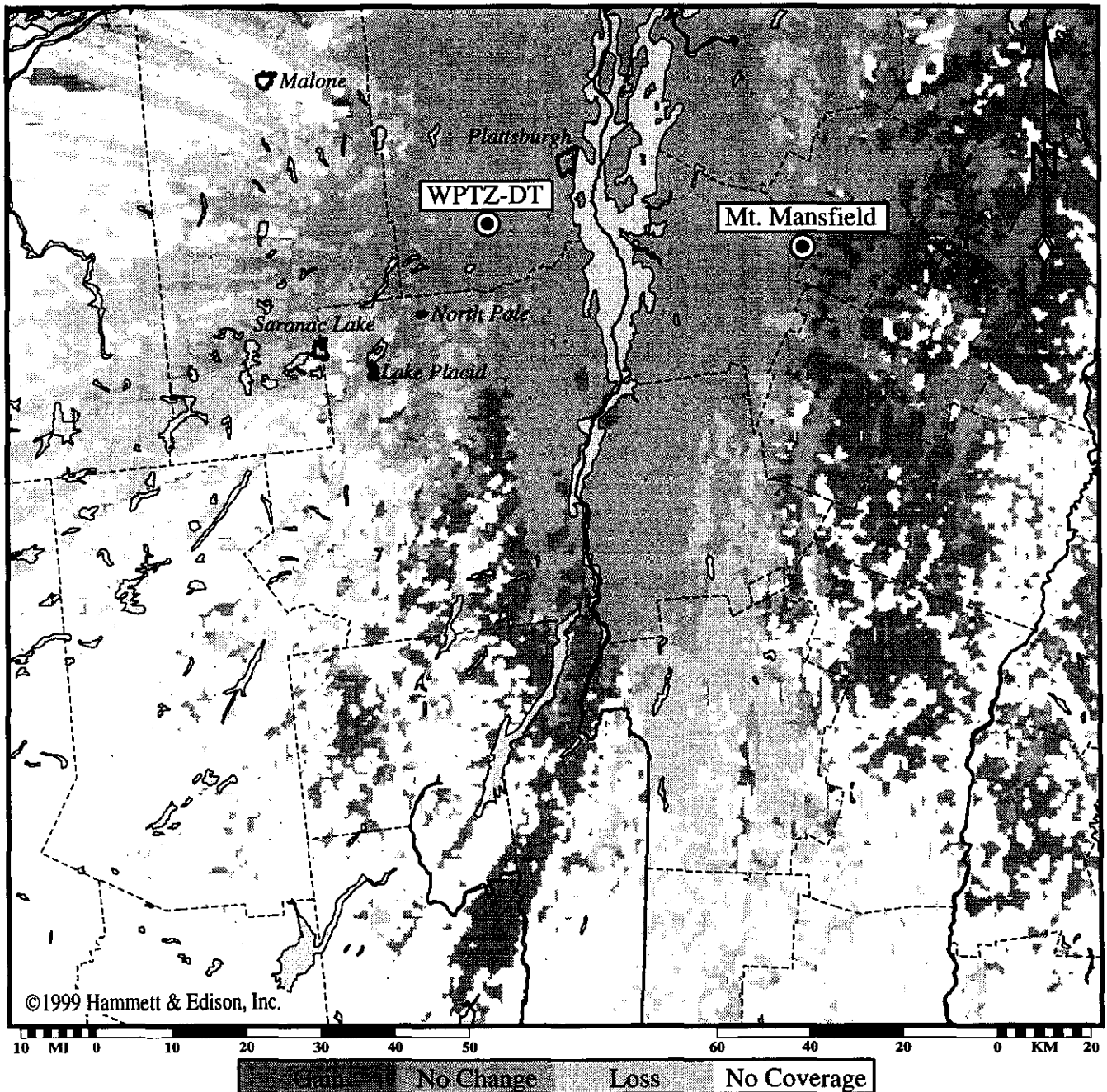
**Terrain-Sensitive Coverage
of Hypothetical WPTZ-DT Facilities at Mt. Mansfield
DTV Channel 14, 365 kilowatts, 1,265 meters AMSL**



Based on proprietary implementation of the JSC Terrain Integrated Rough Earth Model propagation algorithm using 3-second USGS digitized terrain data. Map data taken from Sectional Aeronautical Charts, published by the National Ocean Survey. City limits shown taken from 1995 U.S. Census Bureau TIGER data.

Mt. Mansfield Television, Inc. • Burlington, Vermont

Terrain-Sensitive Coverage Difference
WPTZ-DT Allotted (Terry Mountain) vs. Hypothetical (Mt. Mansfield) Facilities



Based on proprietary implementation of the JSC Terrain Integrated Rough Earth Model propagation algorithm using 3-second USGS digitized terrain data. Map data taken from Sectional Aeronautical Charts, published by the National Ocean Survey. City limits shown taken from 1995 U.S. Census Bureau TIGER data.



HAMMETT & EDISON, INC.
CONSULTING ENGINEERS
SAN FRANCISCO

990818
Figure 3

About This Type of Map

The coverage of TV stations is greatly affected by the nature of the terrain in which the station is located. In flat or gently rolling country, coverage extends approximately the same distance in all directions and is controlled mainly by the power radiated and the height of the transmitting antenna. In such smooth terrain, the simple method of predicting coverage used by the FCC for over forty years provides useful and reasonably accurate maps of coverage. However, for stations located in rough terrain, the FCC-style maps fail to provide a meaningful measure of TV coverage.

To prepare coverage maps that realistically predict coverage, Hammett & Edison, Inc., developed a complete system to determine and show the actual effects of terrain on coverage. This system uses the sophisticated propagation algorithm called the Terrain Integrated Rough Earth Model ("TIREM"), developed at the Joint Spectrum Center (JSC, formerly ECAC) in Annapolis, Maryland. TIREM uses detailed terrain profiles to compute values of basic transmission loss from point to point. The model evaluates the profile between two sites and, based on the geometry of the profile, selects automatically the most probable mode of propagation from various knife-edge models, a rough-earth diffraction model, and line-of-sight models. When combined with the United States Geological Survey 3-second terrain database, as we have done, the TIREM model is the most accurate available means of predicting signal strength when details of terrain along the propagation path are known.

This map presentation, first copyrighted by Hammett & Edison in 1989, shows, in addition to the coverage, the locations of population centers taken directly from the 1990 Census of the United States. Each dot on the map is located at the center of each Census Block; the size of each dot is proportional to the number of persons in that Block. The concentrations of population in cities are quite apparent and in some cases even the street patterns of the cities can be discerned.

The contours shown on the attached map should not be considered as Grade A or Grade B service contours, because those are defined by the FCC Rules and apply only to calculations using the FCC's F(50,50) curves. For familiarity, the specified field intensity contours shown here may be the same as the service or protected contours. Shading or coloring is applied to the map to make the different signal levels more easily distinguished. Such maps are powerful engineering tools used in the initial design or in the improvement of a broadcast facility.

TVIXSTUDY™ Analysis Methodology

Implementation of FCC's Interference-Based Allocation Algorithm

On April 21, 1997, the Federal Communications Commission released its Fifth and Sixth Report and Order texts to Mass Media Docket No. 87-268, establishing a final Table of Allotments for the transition from analog NTSC television service to a digital television ("DTV") service. The Commission utilized a complex set of computerized analysis tools to generate the DTV allotment table and added FCC Rules Section 73.623(b)(2), requiring that similar tools be employed to analyze individual DTV station assignments with regard to their potential interference to other DTV stations, DTV allotments, and existing or authorized NTSC facilities. Those tools were described in FCC OET Bulletin No. 69, *Longley-Rice Methodology for Evaluating TV Coverage and Interference* ("OET-69"), released on July 2, 1997. Subsequent to OET-69, the Commission released, on February 23, 1998, its Memorandum Opinion and Order on Reconsideration of the Fifth [and Sixth] Report and Order[s], which made a number of changes to the previous allotment table and modified several of the analysis methods to be employed for studying DTV allotments and potential facility modifications. On August 10, 1998, the Commission published a text, *Additional Application Processing Guidelines for Digital Television (DTV)*, which provided important clarifications and enhancements to the specified analysis methods. Hammett & Edison has developed and refined the TVIXSTUDY computer software to perform FCC-style DTV allocation studies as based on OET-69, its subsequent clarifications, and also upon a detailed examination of the FCC allotment program software source code.

For most NTSC or DTV stations to be studied, the FCC analysis model first determines the location of the conventional F(50,50) Grade B contour of the NTSC station, or of the NTSC station associated with an assigned DTV station, using pattern information contained in the FCC engineering database and an assumed antenna elevation pattern. The model assumes that contour as an envelope, outside of which no protection from interference is implied or afforded. The location of the Grade B contour was used to determine the assigned power for the DTV station, once again using conventional methods found in FCC Rules Section 73.699, Figures 9 and 10, determining the power necessary on a radial basis to generate the associated DTV coverage contour (41 dBu for UHF, 36 dBu for high VHF Channels 7-13, and 28 dBu for low VHF Channels 2-6), for an assigned DTV channel. The maximum power determined using this method was assigned as the DTV operating power, provided it was calculated to be above established minimum power levels; otherwise, a minimum power level was assigned. By the same token, facilities with calculated DTV power levels above the established maximum power levels for a given channel were assigned the maximum power level. The use of this method usually creates a directional DTV antenna replication pattern, even for DTV assignments to presently omnidirectional NTSC TV stations. The FCC requires that a DTV facility employ an antenna design that meets the calculated replication envelope parameters, unless, with a few exceptions, zero or *de minimus* new interference to other facilities can be demonstrated.

In addition to the use of the Grade B envelope and an assumed directional transmitting antenna for all DTV facilities, the model assumes the use of directive receiving antennas at each studied location, or "cell." The characteristics of the receiving antennas are different, not only for the low



VHF, high VHF, and UHF frequency bands, but also for NTSC and DTV receiving situations; the FCC model specifies that more directive antennas be employed for analysis of DTV reception.

The FCC analysis technique employs terrain-sensitive calculation methods based on Version 1.2.2 of the ITS Irregular Terrain Model, also known as the Longley-Rice model. For each NTSC or DTV station to be studied, a grid of cells, two kilometers on a side, fills the associated Grade B or noise-limited contour. The program first determines which of the cells is predicted to receive service from the associated station, using Longley-Rice analysis with F(50,50) statistical weighting for NTSC and F(50,90) statistical weighting for DTV stations. Cells determined to have no service are not studied for interference from other stations.* Once cells having service are determined, the software analyzes potential interference from other NTSC or DTV stations, again using the Longley-Rice propagation algorithm and defined statistical weighting for all potential interfering signals. Each cell is evaluated, as appropriate, using the desired-to-undesired ratios and methods presented in FCC Rules Section 73.622, 73.623, and 74.706 for each channel relationship, and cells determined to have interference are flagged and excluded from further study, resulting in the generation of net interference-free coverage population totals.

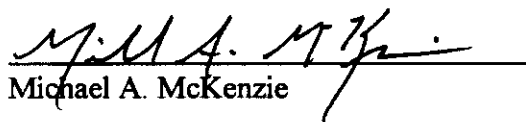
The TVIXSTUDY analysis program employs all of the OET-69 analysis features described above, as well as several other more subtle elements prescribed by the FCC. Additionally, the program allows modeling of implementation scenarios that involve changes to effective radiated power, antenna height, antenna pattern, channel number, and/or transmitter location. TVIXSTUDY also can identify cells that fall in major bodies of water, as based on digitized map data, excluding them from the study. The program is primarily intended to study the effects of existing/potential NTSC or DTV facilities on other DTV or NTSC facilities, as based on desired-to-undesired ratio parameters defined in OET-69. A typical TVIXSTUDY analysis summary includes technical parameters of the proposed DTV or NTSC facility, along with its original (pre-modification) technical parameters, if any. Also included is a listing of each protected DTV and/or NTSC facility or allotment with associated interference-free population tabulations and the unique interference population resulting from operation of the proposed facility. TVIXSTUDY is similar to the program TVCOVSTUDY, which instead predicts the interference-limited coverage of a selected facility.

The results of the OET-69 algorithm are dependent on the use of computer databases, including terrain, population, and FCC engineering records. FCC Rules §0.434(e) specifically disclaims the accuracy of its databases, recommending the use of primary data sources (*i.e.*, paper documents), which is not practical for DTV interference analyses. Further, while Hammett & Edison, Inc. endeavors to follow official releases and established precedents on the matter, FCC policy on DTV analysis methods is constantly changing. Thus, the results of OET-69 interference and coverage studies are subject to change and may differ from FCC results.

* It is noted that the Longley-Rice model is not always capable of determining, within certain confidence limits, whether a particular cell has service. In such cases, the Longley-Rice algorithm returns an error code; the FCC method for handling such error codes is to assume that the associated cells have interference-free service and, as such, are not further considered. The Hammett & Edison TVIXSTUDY program reports the number of such error cells for a given study and provides the option of generating a map showing their locations, which may be useful for further review using other propagation analysis tools.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of August, 1999, I caused a true copy of the foregoing "Comments of Mt. Mansfield Television, Inc." to be served by hand delivery upon the persons listed on the attached service list marked with an asterisk, and by first-class mail upon all other persons listed.


Michael A. McKenzie

SERVICE LIST

*John Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Mark J. Prak
Coe W. Ramsey
Brooks, Pierce, McLendon, Humphrey
& Leonard, L.L.P.
First Union Capitol Center
Suite 1600
P.O. Box 1800
Raleigh, NC 27602

*International Transcription Services, Inc.
1231 20th Street, N.W.
Washington, D.C. 20036